

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

JUL 26 1999

In the Matter of

The Establishment of Policies and Service)	IB Docket No. 99-81
Rules for the Mobile Satellite Service in the)	RM-9328
2 GHz Band)	

REPLY COMMENTS OF
KASTAR SATELLITE COMMUNICATIONS CORP.

KaStar Satellite Communications Corp. ("KaStar"), by its attorneys, hereby files its Reply Comments in the above-captioned proceeding.¹ For the reasons set forth herein, the Commission should reject the suggestion of Hughes Communications Galaxy, Inc. and Hughes Communications, Inc. (collectively, "Hughes"), as presented in their Joint Comments filed June 24, 1999,² to license Celsat America, Inc. ("Celsat") for orbital locations at either 73° W.L., 109.2° W.L. or 111° W.L. in the Ka-band.³ Consideration of Hughes' suggestion is outside the scope of this proceeding, is being addressed directly in another proceeding⁴ and does not demonstrate compliance with the Commission's spacing requirements for GSO FSS satellites in the Ka-band.

No. of Copies rec'd 0
 List A B C D E

No. of Copies rec'd 3
 List A B C D E

¹ See *Notice of Proposed Rulemaking*, FCC 99-50, released March 25, 1999 ("Notice"), which established July 26, 1999 as the deadline for filing Reply Comments in this proceeding.

² See Joint Comments of Hughes Communications Galaxy, Inc. and Hughes Communications, Inc. ("Hughes Comments").

³ See Hughes Comments at 7.

⁴ See *Public Notice*, Report No. SAT-00012, released March 16, 1999.

Introduction

Through its subsidiaries,⁵ KaStar holds authorizations granted in the first Ka-band processing round to construct and operate GSO FSS satellites at 73° W.L. and 109.2° W.L.⁶ KaStar is authorized to operate with one satellite in the 29.5-30 GHz and 19.7-20.2 GHz frequency bands and the second satellite in the 28.35-28.6 GHz and 29.25-29.5 GHz frequency bands for uplink operations and 500 MHz of spectrum for downlink operations within the 17.7-18.8 GHz band.⁷ KaStar proposes to provide broadband communications services to end-users.

In the second Ka-band processing round, Celsat proposes to provide mobile satellite service and has requested 850 MHz of spectrum in each of the 27.5-30.0 GHz and 17.7-20.2 GHz bands for uplink and downlink operations.⁸ Among its various proposed alternatives to this proposal,⁹ Hughes submits that Celsat may be able to satisfy its feeder link needs by operating from orbital

⁵ KaStar is the sole managing member of KaStar 73 Acquisition, LLC and KaStar 109.2 Acquisition, LLC, licensees of orbital locations at 73° W.L. and 109.2° W.L. in the Ka-band, respectively.

⁶ See *KaStar Satellite Communications Corp.*, 13 FCC Rcd 1366 (Int. Bur. 1997).

⁷ See *id.* at 1376.

⁸ Celsat's spectrum request was made in an amendment to its application under consideration in the second Ka-band processing round (File No. SAT-AMD-19980123-00009).

⁹ As the basis for its comments, Hughes argues that Celsat's requested frequencies "are inconsistent with the 28 GHz Band Plan and Hughes's licensed and proposed system." Hughes Comments at 2 (footnote omitted). These Reply Comments do not address the substance of Hughes' assertion, other than to assume *arguendo* that its factual predicate is correct.

locations presently licensed to KaStar and EchoStar Satellite Corporation ("EchoStar")¹⁰ or at 111° W.L., a vacant orbital location.¹¹

Discussion

Hughes' proposal to assign Celsat 500 MHz of spectrum at 73° W.L. and 109.2° W.L. is outside the scope of this rule making proceeding, and thus should not be considered. In the *Notice*, the Commission sought comments on whether operation of GSO MSS feeder link systems (such as Celsat's) in those portions of the Ka-band allocated for GSO FSS use would be suitable.¹² The Commission did not request proposals to license orbital locations or allocate spectrum to Celsat or otherwise solicit suggestions on Celsat's amended application. Insofar as Hughes has suggested that Celsat may be able to utilize alternative Ka-band spectrum, the proper proceeding for such consideration would have been in the context of the pleading cycle for the second Ka-band processing round.¹³ The Commission included Celsat into the second Ka-band processing round so that Celsat's request could be considered in the context of the other second round applicants and the spectrum available to them. However, Hughes elected not to make its proposal

¹⁰ EchoStar is authorized for 500 MHz at 83° W.L. and 121° W.L.

¹¹ See Hughes Comments at 7-8. Hughes also suggests that spectrum at 27.5-28.35 GHz and 17.7-18.55 GHz bands may be able to accommodate Celsat, and that "fringe" orbital locations at the far eastern and far western edges of the domestic orbital arc also may be available to Celsat.

¹² See *Notice* at ¶164.

¹³ In fact, the proposed use of Ka-band frequencies as proposed in Celsat's application was an issue in the second-round pleadings. See, e.g., Comments on Pegasus Petition to Deny filed June 11, 1999 by Space System License, Inc. The pleading cycle in the second Ka-band processing round concluded July 2, 1999.

in connection with that proceeding, and its suggestion that Celsat's request be considered in this proceeding would short-circuit the work being done by the industry in the second processing round and possibly upset the delicate balancing of interests that the parties are attempting to achieve. Therefore, the Commission should not consider Hughes' proposal here.

Moreover, in substance, Hughes' proposal does not provide the required 2° spacing to KaStar's authorized orbital locations as required by Commission policies.¹⁴ Hughes provides no technical showing that Celsat can operate at either 73° W.L. or 109.2° W.L. (which are, in Hughes' words, "core" locations) and protect KaStar's authorized facilities at those orbital locations. Further, Hughes did not provide a technical study demonstrating that GSO FSS and GSO MSS feeder links can share the same orbital locations. Hughes' proposal for Celsat to operate from 111° W.L. is similarly defective because it does not provide the required 2° spacing protection to KaStar's authorized facilities at 109.2° W.L.¹⁵ Hughes also has made no attempt to show how Celsat's request for 850 MHz of spectrum can be accommodated where only 500 MHz of spectrum at 73° W.L. and 109.2 W.L. is available. The appropriate proceeding to evaluate each of these issues is the second Ka-band processing round.

Finally, it should be noted that Hughes did not serve a copy of its Comments on KaStar, EchoStar or the second round applicants. Because Hughes proposes changes to the orbital plan

¹⁴ See *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band, to Reallocate the 29.5 - 30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 12 FCC Rcd 22310, 22320 (1997).

¹⁵ Hughes may be confident that the Commission could devise appropriate safeguards for Celsat and KaStar to operate at 111° W.L. and 109.2° W.L., but that is insufficient to overcome the Commission's 2° spacing requirements. See Hughes Comments at 8, n.25.

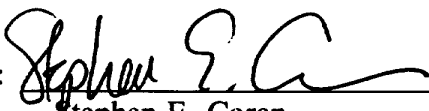
for the Ka-band that do not provide 2° spacing and potentially could be a factor in the second round, at a minimum, the second round applicants, as well as KaStar and EchoStar, should have been provided with copies of the Hughes Comments. Of course, as discussed above, the correct course for Hughes to take would have been to submit its proposals in connection with Celsat's amended application in the second Ka-band processing round.

Conclusion

Hughes has selected the incorrect proceeding to suggest changes to Celsat's second-round application. On its merits, Hughes' proposal does not comply with the Commission's spacing requirements and is not supported with required technical information demonstrating that operation by Celsat would not cause interference to KaStar's authorized facilities. The Commission should reject Hughes' proposal.

Respectfully submitted,

KASTAR SATELLITE COMMUNICATIONS CORP.

By: 
Stephen E. Coran
David G. O'Neil

Rini, Coran & Lancellotta, P.C.
1350 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 296-2007

July 26, 1999

Its Attorneys

CERTIFICATE OF SERVICE

I, Victor Onyeoziri, do hereby certify that a copy of the foregoing "**Reply Comments of KaStar Satellite Communications Corp.**" was served by first class mail, postage pre-paid on this 26th day of July, 1999 to the following:

Paul J. Sinderbrand
Wilkinson Barker Knauer, LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

**Counsel for Wireless Communications
Association International, Inc.**

Cheryl A. Tritt
Charles H. Kennedy
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888

Counsel for ICO Services Limited

Joan M. Griffin
Kelley Drye & Warren
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036-2423

Norman P. Leventhal
Walter P. Jacob
Leventhal, Senter & Lerman, P.L.L.C.
2000 K Street, N.W., Suite 600
Washington, D.C. 20006-1809

**Counsels for BT North American Inc.,
Telecomunicaciones De Mexico,
Hughes Telecommunications and Space Company
TRW Inc.**

Herbert E. Marks
David A. Nall
Bruce A. Olcott
Benigno E. Bartolome
Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044-0407

Counsel for The Boeing Company

Kelly Cameron
Robert L. Galbreath
Powell Goldstein Frazer & Murphy LLP
1001 Pennsylvania Avenue, N.W.
Sixth Floor
Washington, D.C. 20004

Counsel for Immarsat Ltd.

Philip L. Verveer
Angie Kronenberg
Sophie J. Keefer
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036-3384

Counsel for Winstar Communications, Inc.

Christopher D. Imlay
Booth, Freret, Imlay & Tepper
5101 Wisconsin Avenue, N.W.,
Suite 307
Washington, D.C. 20016

Counsel for Society of Broadcast Engineers, Inc.

Robert M. Gurss
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, N.W., #1100
Washington, D.C. 20006

**Counsel for The Association of Public Safety
Communications Officials-International, Inc.**

Robert L. James
Cole, Raywid & Braverman, L.L.P.
Suite 200
1919 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Counsel for Century OCN Programming, Inc.

Bruce D. Jacobs
Stephen J. Berman
David S. Konczal
Fisher, Wayland Cooper Leader &
Zaragoza L.L.P.
Suite 400
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Counsel for Pegasus Development Corporation

Gary M. Epstein
John P. Janka
Arthur S. Landerholm
Latham & Watkins
1001 Pennsylvania Avenue, N.W.
Suite 1300
Washington, D.C. 20004

**Counsel for Hughes Communications, Inc. and
Hughes Communications Galaxy, Inc.**

Peter M. Connolly
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue., N.W.
Washington, D.C. 20036

**Counsel for TMI Communications and Company,
Limited Partnership**

Thomas J. Keller
John M. R. Kneuer
Verner, Liipfert, Bernhard
McPherson and Hand, Chartered
901 15th Street, N.W., Suite 700
Washington, D.C. 20005

Counsel for The Association of American Railroads

Kathy Smith
Acting Chief Counsel
National Telecommunications and Information
Administration
U.S. Department of Commerce
Room 4713
1401 Constitution Avenue, N.W.
Washington, DC 20230

**Counsel for National Telecommunications and
Information Administration**

Katherine M. Harris
A.B. Cruz
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

**Counsel for Personal Communications Industry
Association**

Leonard R. Raish
Mitchell Lazarus
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, VA 22209

**Counsel for Fixed Wireless Communications
Coalition**

David G. Frolio
1133 21st Street, N.W., Suite 900
Washington, D.C. 20036

Counsel for BellSouth Corporation

Robert A. Mazer
Albert Shuldiner
Vinson & Elkins
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1008

Counsel for Constellation Communications, Inc.

Paul J. Feldman, Esquire
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street
11th Floor
Rosslyn, VA 22209

Counsel for The National Academies

Antoinette Cook Bush
John C. Quale
Brian D. Weimer
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Counsel for Celsat America, Inc.

Joseph D. Hersey, Jr.
Chief, Spectrum Management Division
United States Coast Guard
Washington, D.C. 20593-0001

Counsel for U.S. Coast Guard

Thomas J. Keller
Eric T. Werner
Verner, Liipfert, Bernhard, McPherson, and
Hand, Chartered
901 - 15th Street, N.W.
Suite 700
Washington, D.C. 20005-2301

Counsel for Iridium LLC

Tom Davison, Esquire
Phil Marchesiello, Esquire
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, D.C. 20036

Counsel for Mobile Communications Holdings, Inc.

Patricia A. Mahoney, SIA Chair
Clayton Mowry, Executive Director
Satellite Industry Association
225 Reinekers Lane, Suite 600
Alexandria, VA 22314

Counsel for The Satellite Industry Association

John L. Bartlett
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006-2304

Counsel for Aeronautical Radio, Inc.

Thomas E. Goode
Jeffrey L. Sheldon
UTC
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, D.C. 20036

Counsel for UTC

Alfred G. Richter, Jr.
Roger K. Toppins
John S di Bene
One Bell Plaza, Room 3022
Dallas, TX 75202

Counsel for SBC Communications, Inc.

Bobby D. Melvin
Director of Legal and Regulatory Affairs
Bosch Telecom, Inc.
1125 E. Collins Blvd.
Richardson, TX 75081

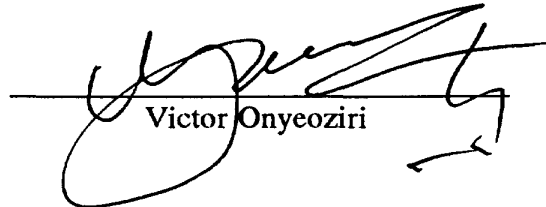
Counsel for Bosch Telecom, Inc.

Mr. Roderick Kelvin Porter*
Acting Chief, International Bureau
Federal Communications Commission
445 Twelfth Street, S.W., 6th Floor
Washington, D.C. 20554

Christopher J. Murphy*
Satellite Policy Branch
Satellite and Radiocommunication Division
International Bureau
Federal Communications Commission
445 Twelfth Street, S.W., 6th Floor
Washington, D.C. 20554

Ms. Cassandra Thomas*
International Bureau
Federal Communications Commission
445 Twelfth Street, S.W., 6th Floor
Washington, D.C. 20554

International Transcript Service, Inc.*
1231 20th Street. N.W.
Washington, D.C. 20037



Victor Onyeoziri

* Hand Delivered

F:\JKnox\1999\DKT99-81\cos.726